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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

IMELDA APARICIO, individually and ) Case No.  
on behalf of all others similarly situated,)

Plaintiff,

vs.

USCB, INC., and DOES 1-10,  
inclusive,  
Defendant.

) **CLASS ACTION**

) **COMPLAINT FOR VIOLATIONS  
OF:**

- ) 1. NEGLIGENT VIOLATIONS  
) OF THE TELEPHONE  
) CONSUMER PROTECTION  
) ACT [47 U.S.C. §227 ET  
) SEQ.]  
) 2. WILLFUL VIOLATIONS  
) OF THE TELEPHONE  
) CONSUMER PROTECTION  
) ACT [47 U.S.C. §227 ET  
) SEQ.]  
) 3. VIOLATIONS OF THE  
) ROSENTHAL FAIR DEBT  
) COLLECTION PRACTICES  
) ACT [CAL. CIV. CODE  
) §1788 ET SEQ.]

) **DEMAND FOR JURY TRIAL**

Plaintiff IMELDA APARICIO (“Plaintiff”), individually and on behalf of  
all others similarly situated, alleges the following against Defendant USCB, INC.

1 (“Defendant”) upon information and belief based upon personal knowledge:

2 **INTRODUCTION**

3 1. Plaintiff’s Class Action Complaint is brought pursuant to the  
4 Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (“TCPA”).

5 2. Plaintiff, individually, and on behalf of all others similarly situated,  
6 brings this Complaint for damages, injunctive relief, and any other available legal  
7 or equitable remedies, resulting from the illegal actions of Defendant in  
8 negligently, knowingly, and/or willfully contacting Plaintiff no Plaintiff’s cellular  
9 telephone, thereby the TCPA, 47 U.S.C. § 227. Plaintiff alleges as follows upon  
10 personal knowledge as to herself and her own acts and experiences, and, as to all  
11 other matters, upon information and belief, including investigation conducted by  
12 his attorneys.

13 3. In addition to Plaintiff’s Class Claims, Plaintiff also brings an action  
14 for damages as an individual consumer for Defendant’s violations the Rosenthal  
15 Fair Debt Collection Practices Act, Cal Civ. Code §1788, et seq. (hereinafter  
16 “RFDCPA”) which prohibits debt collectors from engaging in abusive, deceptive,  
17 and unfair practices.

18 **JURISDICTION AND VENUE**

19 4. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
20 a resident of California, seeks relief on behalf of a Class, which will result in at  
21 least one class member belonging to a different state than that of Defendant, a  
22 California company that does business in California and other States. Plaintiff also  
23 seeks up to \$1,500.00 in damages for each call in violation of the TCPA, which,  
24 when aggregated among a proposed class in the thousands, exceeds the  
25 \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both diversity  
26 jurisdiction and the damages threshold under the Class Action Fairness Act of 2005  
27  
28

1 (“CAFA”) are present, and this Court has jurisdiction.

2 5. Alternatively, this Court has jurisdiction over Plaintiff’s TCPA claims  
3 pursuant to 28 U.S.C. § 1331.

4 6. Ancillary to Plaintiff’s TCPA claims, this Court has jurisdiction  
5 pursuant to 28 U.S.C. § 1367(a) over Plaintiff’s claims arising under the RFDCPA,  
6 Cal. Civ. Code § 1788, *et seq.* because they arise under the same case or  
7 controversy.

8 7. Venue is proper in the United States District Court for the Central  
9 District of California pursuant to 28 U.S.C. § 1391(b)(2) because Defendant does  
10 business within the State of California and Plaintiff resides within this District.

11 **PARTIES**

12 8. Plaintiff, IMELDA APARICIO (“PLAINTIFF”), is a natural person  
13 residing in Los Angeles County in the state of California, and is a “person” as  
14 defined by 47 U.S.C. § 153(39). Furthermore, Plaintiff is a “debtor” as defined by  
15 the RFDCPA, Cal. Civ. Code § 1788.2(h).

16 9. At all relevant times herein, DEFENDANT, USCB, INC.  
17 (“DEFENDANT”), is a company engaged in collection activity in connection with  
18 debts allegedly owed to it, and is a “person” as defined by 47 U.S.C. § 153(39).  
19 Furthermore, Defendant, at all relevant times herein, was a company engaged, by  
20 use of the mails and telephone, in the business of collecting an alleged debt from  
21 PLAINTIFF which qualifies as a “consumer debt” as defined by the RFDCPA,  
22 Cal. Civ. Code § 1788.2(f). DEFENDANT regularly attempts to collect debts in  
23 the ordinary course of its business, and therefore is a “debt collector” as defined  
24 by the RFDCPA, Cal. Civ. Code § 1788.2(c).

25 10. The above named Defendant, and its subsidiaries and agents, are  
26 collectively referred to as “Defendants.” The true names and capacities of the  
27  
28

1 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
2 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
3 names. Each of the Defendants designated herein as a DOE is legally responsible  
4 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend  
5 the Complaint to reflect the true names and capacities of the DOE Defendants  
6 when such identities become known.

7 11. Plaintiff is informed and believes that at all relevant times, each and  
8 every Defendant was acting as an agent and/or employee of each of the other  
9 Defendants and was acting within the course and scope of said agency and/or  
10 employment with the full knowledge and consent of each of the other Defendants.  
11 Plaintiff is informed and believes that each of the acts and/or omissions  
12 complained of herein was made known to, and ratified by, each of the other  
13 Defendants.  
14

15 **FACTUAL ALLEGATIONS – TCPA**

16 12. Beginning in or around August of 2017, Defendant contacted Plaintiff  
17 on her cellular telephone number ending in -3644, in an effort to collect an alleged  
18 debt owed from Plaintiff.

19 13. Defendant called Plaintiff from telephone numbers confirmed to  
20 belong to Defendant, including without limitation (888) 863-9820.

21 14. In its efforts to collect the alleged debt owed from Plaintiff, Defendant  
22 used an “automatic telephone dialing system,” as defined by 47 U.S.C. § 227(a)(1)  
23 to place its daily calls to Plaintiff seeking to collect an alleged debt owed.

24 15. Defendant’s calls constituted calls that were not for emergency  
25 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

26 16. Defendant’s calls were placed to telephone number assigned to a  
27 cellular telephone service for which Plaintiff incurs a charge for incoming calls  
28 pursuant to 47 U.S.C. § 227(b)(1).

1           17. During all relevant times, Defendant did not possess Plaintiff's "prior  
2 express consent" to receive calls using an automatic telephone dialing system or an  
3 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §  
4 227(b)(1)(A).

5           18. Furthermore, Plaintiff orally revoked any and all consent to be  
6 contacted using an automated telephone dialing system, to the extent any ever  
7 existed.

8           19. Despite Plaintiff's oral revocation of consent to be called, Defendant  
9 continued to call Plaintiff.

10           20. Plaintiff alleged upon information and belief, including without  
11 limitation her experience of being called by Defendant despite her explicit  
12 revocation of consent to be called, that Defendant failed to put in place reasonable  
13 policies and procedures to avoid violation of the TCPA.  
14

15                           **FACTUAL ALLEGATIONS – RFDCPA**

16           21. In addition to the facts pled above, at various times prior to the filing  
17 of the instant complaint, including within one year preceding the filing of this  
18 complaint, DEFENDANT contacted PLAINTIFF in an attempt to collect an  
19 alleged outstanding debt.

20           22. On or about July of 2017, Plaintiff began receiving numerous letters  
21 from Defendant, in an attempt to collect upon an alleged debt.

22           23. On or about August of 2017, Plaintiff began receiving numerous calls  
23 from Defendant.

24           24. Each of these calls were made to Plaintiff in connection with  
25 collection on an alleged debt.

26           25. On several occasions, Plaintiff told Defendant to stop calling her, but  
27 Defendant continued to call.  
28

1           26. The RFDCPA, Cal. Civ. Code § 1788.17 mandates that every debt  
2 collector collecting or attempting to collect a consumer debt shall comply with the  
3 Federal Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692b  
4 through 1692j and be subject to the remedies in the FDCPA, 15 U.S.C. § 1692k.

5           27. DEFENDANT’S conduct violated the RFDCPA in multiple ways,  
6 including but not limited to:

- 7           a) Causing a telephone to ring repeatedly or continuously to annoy  
8           Plaintiff (Cal. Civ. Code § 1788.11(d));
- 9           b) Communicating, by telephone or in person, with Plaintiff with such  
10          frequency as to be unreasonable and to constitute an harassment to  
11          Plaintiff under the circumstances (Cal. Civ. Code § 1788.11(e));
- 12          c) Causing Plaintiffs telephone to ring repeatedly or continuously with  
13          intent to harass, annoy or abuse Plaintiff (15 U.S.C. § 1692d(5));
- 14          d) Falsely representing the character, amount, or legal status of  
15          Plaintiff’s debt (15 U.S.C. § 1692e(2)(A));
- 16          e) Threatening to take an action against Plaintiff that cannot be legally  
17          taken or that was not actually intended to be taken (15 U.S.C. §  
18          1692e(5));
- 19          f) Using false representations and deceptive practices in connection  
20          with collection of an alleged debt from Plaintiff (15 U.S.C. §  
21          1692e(10));
- 22          g) Communicating with Plaintiff at times or places which were known  
23          or should have been known to be inconvenient for Plaintiff (15  
24          U.S.C. § 1692c(a)(1)); and
- 25          h) Engaging in conduct the natural consequence of which is to harass,  
26          oppress, or abuse Plaintiff (15 U.S.C. § 1692d)).
- 27

28          28. As a result of the above violations of the RFDCPA, Plaintiff suffered

1 and continues to suffer injury to PLAINTIFF'S feelings, personal humiliation,  
2 embarrassment, mental anguish and emotional distress, and DEFENDANT is  
3 liable to PLAINTIFF for PLAINTIFF'S actual damages, statutory damages, and  
4 costs and attorney's fees.

5 **CLASS ACTION ALLEGATIONS - TCPA**

6 29. Plaintiff brings this action individually and on behalf of all others  
7 similarly situated, as a member of the proposed class (hereafter "The Class")  
8 defined as follows:

9  
10 All persons within the United States who received any  
11 telephone calls from Defendant to said person's cellular  
12 telephone made through the use of any automatic  
13 telephone dialing system or an artificial or prerecorded  
14 voice and such person had not previously consented to  
receiving such calls within the four years prior to the  
filing of this Complaint

15 30. Plaintiff represents, and is a member of, The Class, consisting of All  
16 persons within the United States who received any collection telephone calls from  
17 Defendant to said person's cellular telephone made through the use of any  
18 automatic telephone dialing system or an artificial or prerecorded voice and such  
19 person had not previously not provided their cellular telephone number to  
20 Defendant within the four years prior to the filing of this Complaint.

21 31. Defendant, its employees and agents are excluded from The Class.  
22 Plaintiff does not know the number of members in The Class, but believes the Class  
23 members number in the thousands, if not more. Thus, this matter should be  
24 certified as a Class Action to assist in the expeditious litigation of the matter.

25 32. The Class is so numerous that the individual joinder of all of its  
26 members is impractical. While the exact number and identities of The Class  
27 members are unknown to Plaintiff at this time and can only be ascertained through  
28 appropriate discovery, Plaintiff is informed and believes and thereon alleges that



1 The Class includes thousands of members. Plaintiff alleges that The Class  
2 members may be ascertained by the records maintained by Defendant.

3 33. Plaintiff and members of The Class were harmed by the acts of  
4 Defendant in at least the following ways: Defendant illegally contacted Plaintiff  
5 and Class members via their cellular telephones thereby causing Plaintiff and Class  
6 members to incur certain charges or reduced telephone time for which Plaintiff and  
7 Class members had previously paid by having to retrieve or administer messages  
8 left by Defendant during those illegal calls, and invading the privacy of said  
9 Plaintiff and Class members.

10 34. Common questions of fact and law exist as to all members of The  
11 Class which predominate over any questions affecting only individual members of  
12 The Class. These common legal and factual questions, which do not vary between  
13 Class members, and which may be determined without reference to the individual  
14 circumstances of any Class members, include, but are not limited to, the following:

- 15 a. Whether, within the four years prior to the filing of this  
16 Complaint, Defendant made any collection call (other than a  
17 call made for emergency purposes or made with the prior  
18 express consent of the called party) to a Class member using  
19 any automatic telephone dialing system or any artificial or  
20 prerecorded voice to any telephone number assigned to a  
21 cellular telephone service;
- 22 b. Whether Plaintiff and the Class members were damages  
23 thereby, and the extent of damages for such violation; and
- 24 c. Whether Defendant should be enjoined from engaging in such  
25 conduct in the future.

26 35. As a person that received numerous collection calls from Defendant  
27 using an automatic telephone dialing system or an artificial or prerecorded voice,  
28 without Plaintiff's prior express consent, Plaintiff is asserting claims that are



1 typical of The Class.

2 36. Plaintiff will fairly and adequately protect the interests of the members  
3 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
4 class actions.

5 37. A class action is superior to other available methods of fair and  
6 efficient adjudication of this controversy, since individual litigation of the claims  
7 of all Class members is impracticable. Even if every Class member could afford  
8 individual litigation, the court system could not. It would be unduly burdensome  
9 to the courts in which individual litigation of numerous issues would proceed.  
10 Individualized litigation would also present the potential for varying, inconsistent,  
11 or contradictory judgments and would magnify the delay and expense to all parties  
12 and to the court system resulting from multiple trials of the same complex factual  
13 issues. By contrast, the conduct of this action as a class action presents fewer  
14 management difficulties, conserves the resources of the parties and of the court  
15 system, and protects the rights of each Class member.

16 38. The prosecution of separate actions by individual Class members  
17 would create a risk of adjudications with respect to them that would, as a practical  
18 matter, be dispositive of the interests of the other Class members not parties to such  
19 adjudications or that would substantially impair or impede the ability of such non-  
20 party Class members to protect their interests.

21 39. Defendant has acted or refused to act in respects generally applicable  
22 to The Class, thereby making appropriate final and injunctive relief with regard to  
23 the members of The Class as a whole.

24 **CLASS ACTION ALLEGATIONS - RFDCPA**

25 40. Plaintiff brings this action individually and on behalf of all others  
26 similarly situated, as a member of the proposed class (hereafter “The Class”)  
27 defined as follows:

28 All persons residing in the United States, who, within the

1 one (1) year preceding the filing of this Complaint,  
2 received collection correspondence, through the use of  
3 the United States Postal Service, from Defendant that  
4 attempted to charge interest, fees, or charges not  
authorized in the original agreement or by state law

5 41. Plaintiff represents, and is a member of, The Class, consisting of All  
6 persons residing in the United States, who, within the one (1) year preceding the  
7 filing of this Complaint, received collection correspondence, through the use of the  
8 United States Postal Service, from Defendant that attempted to charge interest, fees,  
9 or charges not authorized in the original agreement or by state law.

10 42. Defendant, its employees and agents are excluded from The Class.  
11 Plaintiff does not know the number of members in The Class, but believes the Class  
12 members number in the thousands, if not more. Thus, this matter should be  
13 certified as a Class Action to assist in the expeditious litigation of the matter.

14 43. The Class is so numerous that the individual joinder of all of its  
15 members is impractical. While the exact number and identities of The Class  
16 members are unknown to Plaintiff at this time and can only be ascertained through  
17 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
18 The Class includes thousands of members. Plaintiff alleges that The Class  
19 members may be ascertained by the records maintained by Defendant.

20 44. Plaintiff and members of The Class were harmed by the acts of  
21 Defendant in at least the following ways: As a result of Defendant's conduct,  
22 Plaintiff and members of the putative class have been deprived of accurate and  
23 valid information regarding the legal status of their debts and how much they owe.

24 45. Common questions of fact and law exist as to all members of The  
25 Class which predominate over any questions affecting only individual members of  
26 The Class. These common legal and factual questions, which do not vary between  
27 Class members, and which may be determined without reference to the individual  
28 circumstances of any Class members, include, but are not limited to, the following:

1  
2 a. Whether, within the one (1) year preceding the filing of this  
3 Complaint, Defendant sent collection letters, through the United  
4 States Postal Service, to debtors and consumers on time-barred  
5 debts that:  
6

7 1. Falsely represented the amount of the debt; and  
8

9 2. Charged interest, fees, or charges not authorized in the  
10 original agreement or by state law  
11

12 b. Whether Plaintiff and the Class members were damaged thereby,  
13 and the extent of damages for such violation; and  
14

15 c. Whether Defendant should be enjoined from engaging in such  
16 conduct in the future;

17 46. As a person that received numerous collection correspondence from  
18 Defendant using the United States Postal Service, Plaintiff is asserting claims that  
19 are typical of The Class.

20 47. Plaintiff will fairly and adequately protect the interests of the members  
21 of The Class. Plaintiff has retained attorneys experienced in the prosecution of  
22 class actions.

23 48. A class action is superior to other available methods of fair and  
24 efficient adjudication of this controversy, since individual litigation of the claims  
25 of all Class members is impracticable. Even if every Class member could afford  
26 individual litigation, the court system could not. It would be unduly burdensome  
27 to the courts in which individual litigation of numerous issues would proceed.  
28 Individualized litigation would also present the potential for varying, inconsistent,

1 or contradictory judgments and would magnify the delay and expense to all parties  
 2 and to the court system resulting from multiple trials of the same complex factual  
 3 issues. By contrast, the conduct of this action as a class action presents fewer  
 4 management difficulties, conserves the resources of the parties and of the court  
 5 system, and protects the rights of each Class member.

6 49. The prosecution of separate actions by individual Class members  
 7 would create a risk of adjudications with respect to them that would, as a practical  
 8 matter, be dispositive of the interests of the other Class members not parties to such  
 9 adjudications or that would substantially impair or impede the ability of such non-  
 10 party Class members to protect their interests.

11 50. Defendant has acted or refused to act in respects generally applicable  
 12 to The Class, thereby making appropriate final and injunctive relief with regard to  
 13 the members of The Class as a whole

#### 14 **FIRST CAUSE OF ACTION**

#### 15 **Negligent Violations of the Telephone Consumer Protection Act**

#### 16 **47 U.S.C. §227 et seq.**

#### 17 **By Plaintiff and The Class Against Defendant**

18 51. Plaintiff repeats and incorporates by reference into this cause of  
 19 action the allegations set forth above at Paragraphs 1-50.

20 52. The foregoing acts and omissions of Defendant constitute numerous  
 21 and multiple negligent violations of the TCPA, including but not limited to each  
 22 and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

23 53. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et*  
 24 *seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
 25 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

26 54. Plaintiff and the Class members are also entitled to and seek  
 27 injunctive relief prohibiting such conduct in the future.

28 ///

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**By Plaintiff and The Class Against Defendant**

55. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-50.

56. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

57. As a result of Defendant's knowing and/or willful violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

58. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**THIRD CAUSE OF ACTION**

**Violations of the Rosenthal Fair Debt Collection Practices Act**

**Cal. Civ. Code § 1788 et seq.**

**By Plaintiff, Individually, Against Defendant**

59. Plaintiff repeats and reincorporates by reference into this cause of action allegations set forth above at paragraphs 1-50.

60. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully.

///

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

**THIRD CAUSE OF ACTION**

**Violations of the Rosenthal Fair Debt Collection Practices Act**

**Cal. Civ. Code § 1788 et seq.**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
- B. Statutory damages for willful and negligent violations;
- C. Costs and reasonable attorney's fees;
- D. For such other and further relief as may be just and proper.

**TRIAL BY JURY**

61. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted on July 20, 2018

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman  
Todd M. Friedman  
Law Offices of Todd M. Friedman  
Attorney for Plaintiff